Supreme Court, U. S.
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In the Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-296

LUCIO P. SALVUCCI,
PETITIONER,

v.

REVERE RACING ASSN., INC. ET AL,
RESPONDENT.

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

RESPONSE FOR RESPONDENT REVERE RACING ASSN., INC.

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Statement of the Issue

Whether the Court of Appeals for the First Circuit properly affirmed a dismissal by the District Court when an identical action in the District of New Hampshire, as admitted and alleged by the Plaintiff, had been dismissed on motion, an appeal was taken to the First Circuit which affirmed the dismissal, and Certiorari was denied.

Statement of Facts

The plaintiff holds a Certificate of Registration from the Register of Copyrights (R. App. p. 2) which he alleges was infringed by the defendants (R. App. 2). A similar suit was filed by the plaintiff against a different race track operator in the United States District Court for New Hampshire (A. App. p. 8) in which the issues were identical with the present action (R. App. p. 8). In the New Hampshire (R. App. p. 8) in which the issues were the defendants was allowed. (R. App. p. 8). The plaintiff appealed to the Court of Appeals for the First Circuit which affirmed per curiam (R. App. p. 8). (*Salvucci* v. *N.H. Jockey Club, Inc.*, No. 75-1434, Mar. 1, 1976. 530 F.2d 962, Certiorari denied, 429 U.S. 860).

A motion to dismiss by the present Respondent was allowed in the District Court for the District of Massachusetts (R. App. p. 9) and the plaintiff appealed (R. App. p. 27). Judgment was affirmed by the Court of Appeals, No. 78-1012, May, 1978.

Arguments and Authorities

It is axiomatic that when issues are litigated and resolved by final appellate review, the same identical issues raised by the same plaintiff in identical pleadings against a different defendant are controlled by the prior judicial resolution under the principles of collateral estoppel.

Respectfully submitted,

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McNulty & Roddy
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Attorneys for Respondent